IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.732 OF 2004

Krishnadas Namdeo Namdas and ors. ...Appellants

vs.

Asstt.Charity Commissioner,Solapur & Ors. ...Respondents

Mr.P.J.Pawar h/f Mr.S.S.Patwardhan for the Appellants
Mr.A.R.Patil,A.G.P. for State
Mr.R.M.Pethe for Respondent Nos.2 and 3.

CORAM: A.S.OKA,J.
DATE : FEBRUARY 13,2007.

P.C.:

1. Heard learned Advocate for the Appellants. The Appellants filed an Application under section 72(1) of the Bombay Public Trusts Act,1950 (hereinafter referred to as the said Act of 1950) before the District Court challenging the order passed by the Assistant Charity Commissioner, Solapur by which a scheme for administration and management of a public trust by the name Shri Keshavraj Sanstha, Pandharpur was framed. The scheme was framed in exercise of powers under section 50-A(1) of the said Act of 1950.

2. The first submission of the learned Advocate for the Appellants is that a public notice was not published in the local newspapers as well as in the gazette declaring intention to frame the scheme. The second contention is that the Appellants being the persons having interest in the trust were

required to be heard before framing the scheme. The third contention is that the trust was having its own rules framed in the year 1939 and there was no necessity of framing the scheme.

3. I have considered the submissions. Under section 50-A(1) of the said Act of 1950, it is not at all necessary to give a public notice either in the newspapers or in the gazette. The said requirement is applicable where under sub section 2 of section 50-A of the said Act of 1950, the learned Charity Commissioner is of the opinion that in the interests of proper management or administration of the trust, two or more public trusts may be amalgamated by framing a scheme. In the present case, amalgamation was not proposed. Sub section 1 of section 50-A of the said Act of 1950 contemplates that the scheme can be framed when the Charity Commissioner has a reason to believe that for the interests of proper administration and management, a scheme should be settled. In the present case, the order passed by the Assistant Charity Commissioner, Solapur shows that he has recorded a necessary satisfaction. He has noted in the order that the day to day management was looked after by an Ad-hoc Committee. He pointed out that while passing the order under section 47 of the said Act of 1950, the Joint Charity Commissioner issued a direction dated 31st January 1996 directing the Ad hoc Committee to file an Application under section 50-A (1) of the said Act of 1950 for

framing the scheme. Accordingly, a scheme has been framed. There is no requirement of law that a notice is required to be issued to all the persons having interests in the Trust before framing the scheme.

4. The submission which is made before me on the basis of the rules of the year 1939 was not made before the District Court. However, I have perused the rules. The said rules have been framed in the year 1939. The Rules are not at all exhaustive and with the passage of time it was necessary to frame a proper scheme.

5. I find no error in the view taken by the the learned Charity Commissioner while framing the scheme. No substantial question of law arises. Appeal is dismissed with no order as to cost.

JUDGE